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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/921,299	08/03/2001	Thomas F. Egan	ACCESS-005XX	5645

7590

08/12/2002

Thomas Anderson  
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EXAMINER

MITCHELL, KATHERINE W

ART UNIT

PAPER NUMBER

3673

DATE MAILED: 08/12/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/921,299

**Applicant(s)**

EGAN, THOMAS F.

**Examiner**

Katherine W Mitchell

**Art Unit**

3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on \_\_\_\_ is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. Applicant's request for non-publication was received; however, because it was not timely filed, it will not be acted upon. Requests for non-publication must be submitted upon filing an application.

#### ***Specification***

2. The disclosure is objected to because of the following informalities: On page 7, line 1, applicant discloses "handle 32". On page 7, line 9, applicant discloses "upright support and handle assembly 30". On page 7, line 14, applicant discloses "vertical support and handle 30". Consistency in nomenclature is required.

Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1, lines 13-14 refer to "caster assemblies attached to the first and second ends of the first and second legs, each pivoting...". The clause beginning with "each pivoting..." is unclear. Examiner suggests adding --caster--, or ---en--, or ---leg-- to clarify the limitation. Claim 1 line 17 discloses "for pivoting along...". Examiner believes that should be --pivoting about--.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Costello US Patent 5502851 in view of Tsuga US Patent 6260218. Costello teaches a main cross member (18) with a first and second end (Fig. 3), a first leg (16) and a second leg (also labeled 16, Fig. 3) each having a first end and a second end (Figs. 3- 5), the first leg pivoting at a first end about a vertical axis at the first end of the main cross member and the second leg pivoting at a first end about a vertical axis at the second end of the main cross member (37,38 Fig 1, col 3 line 53-col 4 line 9), the first and second legs limited in their motion by two locking pins and detent holes (106,108,110,100, Figs 1,3, and 5, col 5 lines 54-65), a plurality of caster assemblies (27, Fig. 1 and 4) attached to the first and second ends of the first and second legs, each pivoting about a vertical axis (col 3 lines 39-41), and a vertical support and handle assembly (40,41, Fig 1) including mounting pins (49, Fig 1, col 4 lines 22-65) suitable for attachment of a lifting and transfer device. However, Costello does not teach that the vertical support and handle assembly is attached to the main cross member via hinge means for pivoting {about} a substantially horizontal axis. Tsuga teaches a portable support apparatus with a vertical support (5) and handle (91) assembly attached to the main cross member via hinge means for pivoting {about} a substantially horizontal axis in Figs. 1 and 9. Examiner notes that the vertical support and handle assembly of Tsuga is attached to a bracket connecting the base legs 1, 2, and 3; however, the foldable function is the same. Therefore, it would have been obvious to one of ordinary skill in the art at the time the

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invention was made to have modified Costello to include a hinged, foldable support and handle assembly in view of Tsuga in order to allow the lift to be folded to a small dimension for transport or storage.

***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Katherine W Mitchell whose telephone number is 703-305-6713. The examiner can normally be reached on Tues-Fri 8am-5 PM and alternate Mondays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather C Shackelford can be reached on 703-308-2978. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-308-8623 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

  
HEATHER SHACKELFORD  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3600

kwm  
July 31, 2002

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